

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

MICHAEL SMITH,

Plaintiff

v.

C.R. BARD, INC.,

Defendant.

)
CIVIL ACTION FILE
NO.: 3:09-CV-0139

On file

The motion for
an extension is
granted. The motion
to compel is RESERVED

PLAINTIFF'S MOTION FOR DISCOVERY EXTENSION AND TO COMPEL
ELECTRONIC SEARCH OF THE WORD TEGRESS

WGD
10-22-09

COMES NOW, Plaintiff in the above-entitled case and hereby files Plaintiff's Motion for Discovery Extension and to Compel Electronic Search of the Word Tegress as follows:

Plaintiff requests an additional 45 days of discovery, as Defendants have not yet provided responsive electronic documents that are due and agreed to be produced under the parties' agreed Electronic Discovery Protocol. Plaintiff submits that this discovery extension is necessary to allow Plaintiff time to review the documents yet to be provided by Defendant and, if necessary, depose or otherwise act on these documents.

The parties agreed on and entered an Electronic Discovery Protocol on September 14, 2009, but have been unable to agree as to Plaintiff's request to search the email boxes of ten (10) of Defendant's employees for the term "Tegress" – the product that Plaintiff alleges was illegally marketed for off-label use. Without providing any supporting proof, Defendant has contended that this search, even when limited to only ten (10) email boxes, is unduly burdensome. Plaintiff maintains that he is entitled to see the time limited emails of this small group of employees and that this request is necessary for discovery